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C O N F I D E N T I A L SECTION 01 OF 02 SOFIA 000121

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STATE FOR EUR AND PM - AMBASSADOR LOFTIS

E.O. 12958: DECL: 01/26/2016

TAGS: [MARR](#) [PGOV](#) [PREL](#) [KPAO](#) [BU](#)

SUBJECT: BULGARIA: EDGING CLOSER TO AGREEMENT ON MILITARY ACCESS

REF: 05 SOFIA 2123

Classified By: DCM Jeff Levine for reasons 1.4 a and d.

11. (C) SUMMARY. A negotiating team led by PM/SNA Senior Advisor Ambassador Robert Loftis made substantial progress toward concluding a combined supplemental Status of Forces Agreement (SOFA) and Defense Cooperation Agreement (DCA) with the GOB during talks in Sofia January 18-20. This session produced agreement on approximately 95% of the document's language. The Bulgarians appear close to accepting the U.S. proposal on criminal jurisdiction, leaving the articles on the use of facilities and prepositioning of equipment as the most important outstanding issues. END SUMMARY.

12. (C) During January 18-20 negotiations in Sofia, U.S. and Bulgarian delegations reached substantive agreement on the contents of a combined Status of Forces (SOFA) and Defense Cooperation Agreement (DCA) document. In response to a request by the Bulgarians in the last negotiating session November 16-17, 2005 (reftel), the U.S. team agreed to combine the SOFA and DCA into one document. In addition to the provisions already settled in the previous round (reftel), agreement was reached on the following Articles:

a. Preamble

1I. Scope and Purpose

II. Political Military Consultations and Cooperation

VI. Property Ownership

VII. Command and Functional Relations

VIII. Entry and Exit

XI. Determination of Criminal Jurisdiction in Official Duty Cases (contingent on agreement on Article X)

XV. Claims

XVI. Official Tax Exemptions

XVII. Personal Tax Exemptions

XIX. Personal Importation and Exportation

XXVII. Logistics Support

XXXIII. Implementation and Disputes

A team of U.S. experts visited Sofia December 14-17, 2005, to hold technical discussions with their Bulgarian counterparts on taxation, importation, exportation, contracting procedures and related issues. This visit was helpful in reaching agreement several areas listed above, particularly those related to taxation, importation and military service activities.

¶3. (C) Several key issues remain to be resolved. These include:

a. Criminal Jurisdiction: The U.S. team proposed that Bulgaria exercise its sovereign discretion to waive its right to exercise criminal jurisdiction, while retaining the right to recall the waiver. The Bulgarians appear to be satisfied with this arrangement, but they are waiting for final approval from the Ministry of Justice.

b. Prepositioning of Defense Equipment, Supplies and Materiel: In an effort to deflect criticism in the Parliamentary ratification process, the lead Bulgarian negotiator, Ambassador Lubomir Ivanov, sought assurances that the U.S. would not station nuclear weapons in Bulgaria. Ambassador Loftis agreed to study this question and respond to Ivanov soon.

c. Use of Facilities: Ivanov said his government would need time to consider the U.S. proposal, most likely at the Prime Minister's level. He reiterated his concern that the final language should be able to withstand a Constitutional Court challenge during Parliamentary ratification. Ambassador Loftis stressed that while the U.S. envisions consultations with Bulgaria, the U.S. would not commit to prior consultations or agree to give Bulgaria veto power over troop

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movements. Ambassador Ivanov responded that he understood the U.S. point, but that the agreement should reflect that the U.S. would give Bulgarian concerns "due consideration." The Bulgarians also wanted to place a limit on the number of U.S. troops that might be present at one time in Bulgaria, which the U.S. agreed to consider.

¶4. (C) As negotiations enter the final critical stages, Post and the MFA agreed in advance not to publicize this round. Post has not detected any press coverage of last week's talks.

¶5. (SBU) As a next step, the U.S. proposes to provide drafts of Annexes A and B prior to the next round of negotiations. In addition, we will shortly propose dates to send a technical team to provide the draft Implementing Arrangements and to begin negotiations on the IAs. Finally, we propose to send a civilian personnel technical expert to Sofia to discuss labor provisions.

¶6. (C) COMMENT: After four sessions, we have come to the critical juncture in these negotiations. For the Bulgarians, the most difficult question is how to accept the U.S. requirement to maximize freedom of movement without opening themselves to challenges in the Constitutional Court, a problem compounded by their legal and constitutional requirement to spell out the conditions under which foreign forces may be present on Bulgarian soil. It now falls to the government leadership, and in particular the Socialists, to explain to their base why this agreement, and an improved military to military relationship with the United States, advances Bulgarian interests.

¶7. (U) Ambassador Loftis has cleared this message.  
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